IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.3762 OF 2004

Mehamood Badebapu Sayyed .. Petitioner

Versus

State of Maharashtra .. Respondents

Mrs.Gohil i/b. G.S.Gaikwad for petitioner

Mr.K.V.Saste, A.P.P. for State.

CORAM : A.M.KHANWILKAR, J.

DATE : SEPTEMBER 13, 2004.

P.C.

1. Heard learned Counsel for the parties. For the nature of the order that I propose to pass, it is not necessary to advert to the merits of the controversy. Suffice it to observe that

the court below has rejected anticipatory bail application preferred by the applicant, essentially, because neither the applicant nor his Advocate was present at the relevant time. The applicant has offered explanation before this Court in clause (g) at page 4, that on the relevant date mother of the applicant was hospitalised due to heart attack and other medical complications due to old age and was in intensive care unit. This being a sufficient cause, instead of going to the merits of the controversy, the appropriate course to my mind is to relegate the applicant to the sessions court which in turn will decide criminal bail application No.1185 of 2004 on its own merits in accordance with the law. The order passed by the sessions court on 11th August 2004 is set aside and the application is restored to file of sessions court for considering the same on its own merits, uninfluenced by the impugned order or the present order. The applicant to appear

before the sessions court on 20th September 2004. Till such time, the applicant shall not be arrested. It is however, made clear that the applicant shall extend necessary cooperation to the investigating officer as and when required, in spite of this protection.

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